

AN ACT

relating to small and large employer health group cooperatives and to employer contributions to individual health insurance policies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1501.051, Insurance Code, is amended by amending Subdivision (3-a) and adding Subdivision (3-b) to read as follows:

(3-a) "Eligible single-employee business" means a business entity that:

(A) is owned and operated by a sole proprietor;

(B) employed an average of fewer than two employees on business days during the preceding calendar year; and

(C) is eligible to participate in a cooperative under this subchapter in accordance with Section 1501.066.

(3-b) "Expanded service area" means any area larger than one county in which a health group cooperative offers coverage.

SECTION 2. Subsection (a), Section 1501.058, Insurance Code, is amended to read as follows:

(a) A cooperative shall:

(1) arrange for small or large employer health benefit plan coverage for small employer groups, ~~or~~ large employer groups, and, subject to Section 1501.0581, eligible single-employee businesses that participate in the cooperative by

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S.B. No. 859

1 contracting with small or large employer health benefit plan
2 issuers that meet the requirements established by Section 1501.061;

3 (2) collect premiums to cover the cost of:

4 (A) small or large employer health benefit plan
5 coverage purchased through the cooperative; and

6 (B) the cooperative's administrative expenses;

7 (3) establish administrative and accounting
8 procedures for the operation of the cooperative;

9 (4) establish procedures under which an applicant for
10 or participant in coverage issued through the cooperative may have
11 a grievance reviewed by an impartial person;

12 (5) contract with small or large employer health
13 benefit plan issuers to provide services to small or large
14 employers covered through the cooperative; and

15 (6) develop and implement a plan to maintain public
16 awareness of the cooperative and publicize the eligibility
17 requirements for, and the procedures for enrollment in, coverage
18 through the cooperative.

19 SECTION 3. Section 1501.0581, Insurance Code, is amended by
20 amending Subsections (a), (b), (k), and (p) and adding Subsections
21 (q) through (x) to read as follows:

22 (a) The membership of a health group cooperative may consist
23 of only small employers; ~~only large employers;~~ ~~or~~ both small
24 and large employers; small employers and eligible single-employee
25 businesses; large employers and eligible single-employee
26 businesses; or small employers, large employers, and eligible
27 single-employee businesses. To participate as a member of a health

1 group cooperative, an employer must be a small or large employer as
2 described by this chapter or an eligible single-employee business.

3 (b) Subject to the requirements imposed on small employer
4 health benefit plan issuers under Section 1501.101 and subject to
5 Subsections (a-1) and (o), a health group cooperative:

6 (1) shall allow a small employer to join a health group
7 cooperative, other than a health group cooperative consisting of
8 only ~~[small employers or both small and]~~ large employers, and
9 enroll in health benefit plan coverage; ~~[and]~~

10 (2) subject to Subsection (t), may allow eligible
11 single-employee businesses to join a health group cooperative and
12 enroll in health benefit plan coverage; and

13 (3) may allow a large employer to join the health group
14 cooperative and enroll in health benefit plan coverage.

15 (k) A health group cooperative may offer more than one
16 health benefit plan, but each plan offered must be made available to
17 all employers participating in ~~[employees covered by]~~ the
18 cooperative.

19 (p) A health group cooperative must make the election
20 described by Subsection (o) at the time the cooperative is
21 initially formed. A health group cooperative making this election
22 may not include an eligible single-employee business. Evidence of
23 the election must be filed in writing with the commissioner in the
24 form and at the time prescribed by the commissioner by rule.

25 (q) Except as provided by Subsection (r), a health group
26 cooperative may file an election with the commissioner, on a form
27 and in the manner prescribed by the commissioner, to permit

eligible single-employee businesses to join the cooperative and to enroll in health benefit plan coverage. The election must be filed not later than the 90th day before the date coverage for eligible single-employee businesses is to become effective.

(r) A health group cooperative may file an election under Subsection (q) only if a small or large employer health benefit plan issuer has agreed in writing to offer to issue coverage to the cooperative based on its membership after the election to permit eligible single-employee businesses to participate in the cooperative has become effective.

(s) On the date an election under Subsection (q) becomes effective and until the election is rescinded, the provisions of this subchapter relating to guaranteed issuance of plans, to rating requirements, and to mandated benefits that are applicable to small employers apply to eligible single-employee businesses that are members of the health group cooperative.

(t) A health group cooperative that files an election with the commissioner to permit an eligible single-employee business to join the health group cooperative and enroll in health benefit plan coverage must permit participation and enrollment in the cooperative's health benefit plan coverage during the initial enrollment and annual open enrollment periods by each eligible single-employee business that elects to participate and agrees to satisfy requirements associated with participation in and coverage through the cooperative. For purposes of this subsection, the provisions of Subsection (a-1) applicable to small employers apply to eligible single-employee businesses.

1 (u) A health group cooperative may rescind its election to
2 permit eligible single-employee businesses to join the cooperative
3 and enroll in health benefit plan coverage only if:

4 (1) the election has been effective for at least two
5 years, except as provided by Subsection (v);

6 (2) the health group cooperative files notice of the
7 rescission with the commissioner not later than the 180th day
8 before the effective date of the rescission; and

9 (3) the health group cooperative provides written
10 notice of termination of coverage to all eligible single-employee
11 business members of the cooperative not later than the 180th day
12 before the effective date of the termination.

13 (v) The commissioner shall adopt rules under which a health
14 group cooperative may for good cause rescind an election described
15 by Subsection (u) before the second anniversary of the effective
16 date of the election.

17 (w) Notwithstanding Subsection (u), a health group
18 cooperative that files notice of rescission may choose to permit
19 existing eligible single-employee businesses to remain active,
20 covered members of the cooperative, but only if all such members of
21 the cooperative are provided the same opportunity.

22 (x) A health group cooperative that has rescinded an
23 election under Subsection (u) may not file a subsequent election to
24 permit eligible single-employee businesses to join the cooperative
25 and enroll in health benefit plan coverage before the fifth
26 anniversary of the effective date of the rescission.

27 SECTION 4. Subsection (b-3), Section 1501.063, Insurance

1 Code, is amended to read as follows:

2 (b-3) Except as provided by Section 1501.0581(k), a [A]
3 health group cooperative shall have sole authority to make benefit
4 elections and perform other administrative functions under this
5 code for the cooperative's participating employers.

6 SECTION 5. Section 1501.065, Insurance Code, is amended to
7 read as follows:

8 Sec. 1501.065. CERTAIN ACTIONS BASED ON RISK
9 CHARACTERISTICS OR HEALTH STATUS PROHIBITED. A cooperative may not
10 limit, restrict, or condition an employer's or employee's
11 membership in a cooperative or an employee's choice among benefit
12 plans based on:

13 (1) risk characteristics of a group or of any member of
14 a group; or

15 (2) health status related factors, duration of
16 coverage, or any similar characteristic related to the health
17 status or experience of a group or of any member of a group.

18 SECTION 6. Subchapter B, Chapter 1501, Insurance Code, is
19 amended by adding Sections 1501.066 and 1501.067 to read as
20 follows:

21 Sec. 1501.066. ELECTION TO TREAT PARTICIPATING EMPLOYERS
22 SEPARATELY FOR RATING PURPOSES. (a) Notwithstanding Section
23 1501.063, a health group cooperative may file with the
24 commissioner, on a form and in the manner prescribed by the
25 commissioner, an election to treat each participating employer
26 within the cooperative as a separate employer for purposes of
27 rating small and large employer health benefit plans, subject to

1 the rating requirements of this code applicable to such plans. An
 2 existing health group cooperative must file the election with the
 3 department not later than the 90th day before the date on which the
 4 election is to become effective.

5 **(b)** A health group cooperative must provide to all
 6 participating and prospective employers, in a manner prescribed by
 7 the commissioner, a written notice of the cooperative's election to
 8 treat participating employers within the cooperative as separate
 9 employers for purposes of rating small and large employer health
 10 benefit plans. Employers participating in the cooperative when
 11 such an election is made must be provided notice of the election not
 12 later than the 90th day before the date the election is to become
 13 effective. For a participating employer, the notice must contain
 14 the quote for the premium rate applicable to the employer as of the
 15 date the plan is renewed. Prospective employers must be provided
 16 notice of the election when the prospective employer applies to
 17 become a participating employer in the health group cooperative.

18 **(c)** An election under this section is effective on the
 19 earliest date after the election is made on which the plan to which
 20 the election applies is initially issued or renewed. The election
 21 remains in effect for not less than 12 months after the effective
 22 date.

23 **Sec. 1501.067. ELIGIBLE SINGLE-EMPLOYEE BUSINESS.** The
 24 commissioner shall adopt rules governing the eligibility of a
 25 single-employee business to participate in a health group
 26 cooperative under this subchapter. The rules must include
 27 provisions to ensure that each eligible single-employee business

1 has a business purpose and was not formed solely to obtain health
2 benefit plan coverage under this subchapter.

3 SECTION 7. Subtitle A, Title 8, Insurance Code, is amended
4 by adding Chapter 1221 to read as follows:

5 CHAPTER 1221. EMPLOYER CONTRIBUTIONS TO INDIVIDUAL HEALTH

6 INSURANCE POLICIES

7 Sec. 1221.001. RULES; EMPLOYER CONTRIBUTIONS. The
8 commissioner by rule, unless it would violate state or federal law,
9 may develop procedures to allow an employer to make financial
10 contributions to or premium payments for an employee or retiree's
11 individual consumer directed health insurance policy in a manner
12 that eliminates or minimizes the state or federal tax consequences,
13 or provides positive state or federal tax consequences, to the
14 employer.

15 SECTION 8. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2011.

S.B. No. 859

David Dewhurst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 859 passed the Senate on March 24, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Spaw

Secretary of the Senate

I hereby certify that S.B. No. 859 passed the House, with amendment, on May 23, 2011, by the following vote: Yeas 146, Nays 0, two present not voting.

Robert Haney

Chief Clerk of the House

Approved:

17 Jun '11

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
4 PM O'CLOCK

JUN 17 2011

Debra R. Rodriguez

Secretary of State